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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,778	10/17/2003	Brian J. Caprera	15826-191001 / MN-03-001	9554
26231	7590	02/22/2005	EXAMINER	
FISH & RICHARDSON P.C. 5000 BANK ONE CENTER 1717 MAIN STREET DALLAS, TX 75201			BASTIANELLI, JOHN	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/688,778	Applicant(s) CAPRERA, BRIAN J.	
	Examiner John Bastianelli	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-13 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/24/04, 12/30/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Suggestions***

1. The punctuation in the claims needs to be fixed. For example, in claim 1, at the end of the claim, the semicolon should be a period. In claim 2, the period at the end is missing.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 6-7, 9-11, 16, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Polon US 4,989,833.

Polon discloses a valve body (Figs. 1-7) defining an inner seat 6 and having a fluid inlet and fluid outlet 2 and 2'; and a control ball element 7 rotatably mounted in the inner seat, and having a partially spherical outer surface, a flow passage 11 through said ball element having disposed on an upstream end of said flow passage, a leading edge, a first inner control surface abutting the leading edge, and a second inner control surface abutting the leading edge at an angle oblique to the first inner control surface. The leading edge has a v-formation, control shaft with an actuator, a pair of descending ears with a passage and extensions. A pair of flaring segments define a first leading edge being symmetric and a pair of descending segments are adjacent the flaring segments and are symmetric.

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4. Claims 1-3, 8, 11-13, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis US 5,524,863.

Davis discloses a valve body (Fig. 3) defining an inner seat 124 and having a fluid inlet 106 and fluid outlet 108; and a control ball element 150 rotatably mounted in the inner seat, and having a partially spherical outer surface, a flow passage 116 through said ball element having disposed on an upstream end of said flow passage, a leading edge, a first inner control surface abutting the leading edge, and a second inner control surface abutting the leading edge at an angle oblique to the first inner control surface (Fig. 3). The first and second inner control surfaces have first and second longitudinal axes at an angle (Fig. 3). A trailing edge abuts the first inner control surface but not the second inner control surface. A pair of flaring segments define a first leading edge being symmetric and a pair of descending segments are adjacent the flaring segments and are symmetric.

5. Claims 11, and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Frese et al. US 6,378,842.

Frese discloses a valve body (Fig. 1) defining an inner seat and having a fluid inlet 30 and fluid outlet 26; and a control ball element 6 rotatably mounted in the inner seat, and having a partially spherical outer surface, a flow passage through said ball element having disposed on an upstream end of said flow passage, a leading edge, a first inner control surface abutting the leading edge, and a second inner control surface abutting the leading edge at an angle to the first inner control surface (Fig. 1). The leading edge has a v-formation, control shaft, a pair of descending ears with a passage and extensions. A pair of flaring segments define a first leading edge being symmetric and a pair of descending segments are adjacent the flaring segments and are

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symmetric. The pair of descending segments are formed by the intersection of the outer surface with a first inner surface. The flaring segments are formed by the intersection of the outer surface with a second inner surface.

***Allowable Subject Matter***

6. Claims 4-5 and 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The primary reason for the allowance of the claims is the angle between the first and second longitudinal axis between 6 and 12 degrees in combination with the device as cited in claims 1, 2, and 3.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Conway discloses a V-ball.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (571) 272-4921. The examiner can normally be reached on M-F (9:00-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JB

February 17, 2005



John Bastianelli  
Primary Examiner  
Art Unit 3751